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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

129

CR-3550-2026
Date of decision: 11.05.2026

EKAM ENTERPRISES AND ANOTHER **....Petitioners**

VERSUS

SANDEEP GUPTA **...Respondent**

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Shehbaz Thind, Advocate and
Mr. Sultan Singh, Advocate for the petitioners.

Mr. Anmol Puri, Advocate for the respondent.

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YASHVIR SINGH RATHOR. J.(Oral)

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 02.04.2026 passed by the learned Additional District Judge, Ludhiana (Annexure P-4), whereby the application filed by the petitioners/defendants under Order 6 Rule 17 read with Section 151 CPC for amendment of the written statement (Annexure P-3) has been dismissed.

2. I have heard learned counsel for the parties and have gone through the material placed on the file.

3. Case of the defendants-petitioners is that they have already filed their written statement in the suit, which is presently at the stage of defendant evidence. During the course of the proceedings, it has come to the notice of the defendants-

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petitioners that certain material facts and crucial legal objections have been omitted in the original pleadings due to a communication gap with their previous counsel, as the original written statement consisted primarily of bare denials and failed to effectively present the defendants' true case. As such, the defendants/applicants sought amendment of the written statement to incorporate the following preliminary objections, which are stated to be necessary for the proper adjudication of dispute:-

After the para no.2 of preliminary objections, the following paras are to be added :-

"3. That the present suit is false and frivolous and is not sustainable in the eyes of law on this score the suit of the plaintiff is legally not maintainable and is liable to be dismissed.

4. That the plaintiff is estopped by his own act and conduct from filing the false and frivolous suit.

5. That no cause of action has accrued to the plaintiff against answering defendants to file the present suit. That the suit is legally barred by time. The plaintiff is claiming an amount based on a running account with interest calculated from 1.4.2015. The suit was filed in April 2018. Any claims regarding goods supplied prior to three years from the date of filing are time barred. The plaintiff is attempting to revive a time barred debt by relying on cheques which were not issued for the discharge of any legally enforceable debt.

6. That the plaintiff has approached this Hon'ble Court with unclean hands. The plaintiff has concealed that the cheques in question (Cheque no.589155 and 589156) were given as blank signed for some other business transactions and not in discharge of alleged liability on 30.9.2017. The plaintiff has misused these instruments by filling in arbitrarily dates and amounts.

7. That the claim for interest @ 24% per annum is usurious, penal

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and exorbitant. These is no written contract or trade usage justifying such a high rate. Infact, no amount is due qua the defendants, as such no interest is liable to be paid.

8. That the plaintiff is not entitled to any relief as claimed by him in his plaint. Hence, the same is liable to be dismissed with exemplary costs under section 35-A of CPC.

9. That the present suit is bad for mis-joinder and non- joinder of necessary parties."

4. It has further been submitted that the proposed amendments are clarificatory in nature and are essential for determining the real controversy between the parties and the proposed amendments will neither alter the fundamental nature of the suit nor they amount to withdrawal of any admissions previously made.

5. The application has been opposed by the plaintiff-respondent by filing a written reply, wherein it has been asserted that the recovery suit is pending since 02.04.2018. The written statement was filed on 21.01.2020, issues were framed on 10.02.2020 and the trial has progressed substantially with the conclusion of the entire plaintiff's evidence and the examination of three witnesses by defendants. Now the application has been filed after a lapse of nearly eight years with an ulterior motive just to delay the proceedings.

6. While dismissing the application, the learned Trial Court observed that the petitioners have failed to establish "due diligence" as required under the law, for not pleading the said facts at the initial stage and further held that allowing the amendment at this advance stage would result into a *de novo* trial and will cause grave prejudice to the plaintiff.

7. The plaintiff/respondent has filed a present suit for recovery of a sum

of Rs.54,22,222/- against the defendants on account of sale of goods and defendants had issued the cheques in question for Rs.1,50,000/- and Rs.1,30,000/- respectively, which were dishonored. A prayer for passing a decree for recovery of Rs.54,22,222/- was made which included principal sum of Rs.31,52,455/- besides interest.

8. Following averments have been made in para No.4 of the plaint regarding issuance of cheques:-

> *"4. That the plaintiff had been calling upon the defendants to pay their outstanding liability, but each time, the defendants have been putting off on one or the other pretext. However, on repeated requests, the defendants, issued the following cheques favouring the complainant:-*
>
> *a) Cheque No.589155 Dated 30.09.2017 amounting to Rs.1,50,000/-.*
>
> *b) Cheque No.589156 Dated 30.09.2017 amounting to Rs.1,30,000/-.*
>
> *Both drawn upon State Bank of Patiala, in part payment of their liability."*

9. Defendants in their written statement to para No.4 of the plaint have pleaded as under:-

> *"4. That the para no.4 of the plaint is wrong and denied. It is wrong and denied that the plaintiff had been calling to pay the outstanding amount or each time the defendants have been putting off one or the other pretext as alleged."*

10. The aforesaid reply filed by the defendants is vague and no plea has been taken that the cheques were not issued or that the same had been given blank for some other business transactions. Now by way of proposed amendment as sought in para no.6 of the preliminary objections, defendants want to take a plea

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that both the cheques were given blank duly signed but for some other business transactions and not in discharge of alleged liability on 30.09.2017 and the same have been misused. Defendants thus want to putforth an altogether different version. No such plea has been taken in the original written statement and rather issuance of cheques has not been specifically denied. As such, the defendants want to introduce a new case, which is not permissible under the garb of the application under Order 6 Rule 17 CPC particularly when plaintiff has already concluded his evidence and defendants too have examined three witnesses on their behalf. As such, the amendment sought by way of para no.6 of the preliminary objections cannot be allowed and order passed by the learned trial Court dismissing the application to that extent does not suffer from any material illegality or infirmity.

11. So far as the remaining amendments sought to be incorporated, as mentioned in paragraphs 3 to 5 and 7 to 9 of the preliminary objections, are concerned, the same are purely legal in nature and relate to the maintainability of the suit, estoppel, cause of action, limitation, rate of interest, misjoinder, and non-joinder of necessary parties. In case, the said amendments are allowed to be made in the written statement, no prejudice will be caused to the plaintiff as the suit is still at the stage of defendants' evidence and in case, they will lead any evidence on these issues, plaintiff shall have the right to rebut the same. It is well settled that the amendment of written statement is to be liberally construed unless entirely a new case is sought to be put-forth and the parameters laid down for amendment of plaint are something different and are not co-extensive to the parameters required for amendment of written statement.

12. Resultantly, the petition in hand is partly allowed and defendants are

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allowed to carry out the amendments in the written statement as sought in para nos.3 to 5 and 7 to 9 of the preliminary objections of the plaint.

13. Pending misc. application (s), if any, shall also stand disposed of.

(YASHVIR SINGH RATHOR)
JUDGE

11.05.2026
Amandeep/Priyanka Thakur

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No